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**OFFICE OF THE MAYOR
ADMINISTRATIVE ORDER 2005-1**

An Administrative Order Directing City Departments Performing Capital Projects to Adhere to the City Requirement that 1.5% of the Construction Cost of each Legally Eligible Project be Set Aside for Public Art; that City Departments Performing Capital Projects Deposit such funds in a Municipal Art Account to be Administered by the Department of Finance for the benefit of the Public Arts program; that All Future Legally Eligible Bond Issuances Include this Public Art Requirement as a Provision, and that the City's Chief Procurement Officer include the Public Art Component in All City Bid Documents and Requests for Proposals for Legally Eligible City Capital Projects.

WHEREAS, public art throughout the City of Atlanta enhances the City's beauty, attracts citizens to live and work in the City, and enhances City tourism; and

WHEREAS, all City Departments performing Capital Projects should actively recognize the City's commitment to promoting public art; and

WHEREAS, public art placed throughout the City makes art accessible to people of all incomes; and

WHEREAS, the City of Atlanta has a Public Art Master Plan to guide the development and implementation of a comprehensive approach to public art in the City of Atlanta; and

WHEREAS, the City Council adopted and the Mayor approved Atlanta Code of Ordinances Section 46-77 and 46-78; and

WHEREAS, Atlanta Code of Ordinances Section 46-77 amended "Works of Art in Public Places"; a policy adopting the Public Art Master Plan as a guide for the development, administration and maintenance of public art in Atlanta; and

WHEREAS, Atlanta Code of Ordinance Section 46-78 provides that "All requests for appropriations for construction projects from eligible funds ...shall include the encumbrance of an amount equal to one and one-half percent of the estimated cost of such projects for public works of art and shall be accompanied by contractual requirements authorizing the Bureau of Cultural Affairs to expend such funds after the same have been deposited in a municipal arts account. When any such request for construction projects is approved, the appropriation for such construction projects shall be made and shall include an appropriation of funds for works of art, at the rate of one and one-half percent of project costs to be deposited into the municipal arts account as a line item in each fund;" and

WHEREAS, as used in Atlanta Code of Ordinances Section 46-78, "construction project" means any capital project. "Eligible funds" means funds which pay for actual construction costs, and specifically excluding funds which pay for engineering, architecture, acquisitions, land acquisition, and interest costs, any incidental costs not associated with construction, and further excluding any funds which come from general obligation school bonds, private grants, unless expressly stated in the conditions of the grant itself, and assessment programs; and

WHEREAS, as used in this order, "Legally Eligible City Capital Projects" shall mean those capital programs in which a determination is made that the funds for public art can be used in a manner that is legally and fiscally sound, and is consistent with the terms of the bond issue, if the project is funded with bonds; or the conditions or restrictions of any grants, if the project is funded with grants, either private or governmental; and

WHEREAS, the Department of Aviation has for a number of years had an established Public Arts program that is already funded and a part of the construction projects at the Airport, such program being a successful use of funds for the placement and maintenance of public art; and

WHEREAS, in order to truly support the procurement, restoration, and maintenance of public art, it is critical that City departments understand the requirements of Atlanta Code of Ordinances Section 46-78 and include public art in Legally Eligible Projects to the maximum extent feasible and appropriate.

NOW, THEREFORE, BY THE POWER VESTED IN ME AS MAYOR OF THE CITY OF ATLANTA, pursuant to Section 3-104 of the City of

Atlanta Charter, 1996 Ga. Laws, p. 4469, *et seq.*, and Section 2-182(4) of the Code of Ordinances, it is hereby ordered as follows:

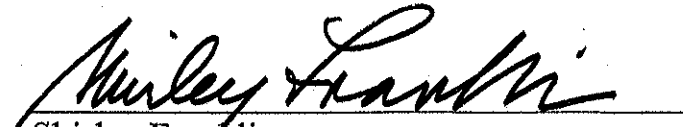
1. Except as provided in paragraph 3 below, bid documents and requests for proposals for Legally Eligible City Capital Projects, issued after the date of this Administrative Order, shall include a provision requiring all bidders/proponents to include 1.5% of the total construction costs funded by Eligible Funds as a line item in the bidder's/proponent's price, providing that such 1.5% shall be used for public art. This requirement is subject to the restrictions accompanying the use of bond funds that arise from applicable federal, state, and local law, and the bond covenants, if applicable.
2. Except as provided in paragraph 3 below, bid documents and requests for proposals for Legally Eligible City Capital Projects funded by bonds that have already been issued but the projects have not been let, but where the bonds documents do not include a provision regarding public art, shall include a provision that all bidders/proponents include 1.5% for public art of the total construction costs funded by Eligible Funds as a line item in the bidder's/proponent's price, providing that such 1.5% shall be used for public art directly related to and physically located on the project being funded by the bonds. This provision will apply only if it is consistent with the terms of the bond documents and all applicable laws.
3. As an alternative to the inclusion of the public arts in bids or requests for proposals when the using agency does not wish to include the public art component of a Legally Eligible Project as a line item in the bid or request for proposal, the using agency shall identify an alternative approach that accounts for the public art component in a separate contract. The City, through the Bureau of Cultural Affairs with the review of the Department of Procurement, may contract directly with the artists to produce the public art, provided, however, nothing in this paragraph shall change the duties of the Department of Finance to manage the public arts funds set forth in paragraph 9 or to change the requirement to manage the funds in accordance with applicable law and any bond covenants.
4. City Departments shall make their best efforts to identify opportunities for the inclusion of public art in capital projects. Each department shall appoint a liaison who shall work with the Bureau of Cultural Affairs to

identify opportunities for the inclusion of public art components in their capital projects.

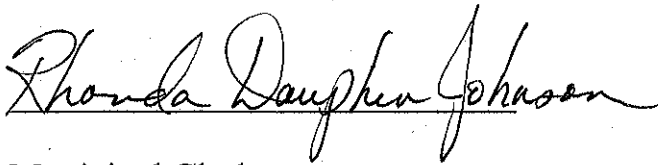
5. A bid document or request for proposals for a bond funded project which is of such a nature that the provisions of the applicable Georgia law, bond referendum or bond contracts do not permit the project funds to be expended on public art, shall be exempt from the provisions set forth herein. The determination as to restrictions imposed pursuant to the provisions of a bond contracts shall be made by the City Attorney and provided to the using agency and Commissioner of the Department of Parks, Recreation and Cultural Affairs.
6. The Chief Procurement Officer shall inquire of the using agency and review every bid document and request for proposals for a Legally Eligible City Capital Project, prior to its issuance, to ensure that the user department has included in the bid documents and request for proposal the requirement to include 1.5% of the total construction costs for the project as a line item included in the bidder's/proponent's price or that a separate procurement of public art as contemplated in paragraph 3 is being done. In the event that the using agency has failed to include one of these methods of procuring public art, the Chief Procurement Officer shall return the bid document or request for proposals to the user department for correction.
7. All general obligation bond issuances for which authorization occurs after the date of this Administrative Order, shall include a provision stating that an amount equal to 1.5% of the construction costs of each project funded by the bonds shall be deposited into an account to be utilized for public art. These bond issuances shall, to the extent allowed by law, make clear that the public art funded by this allocation need not be related to or located at the project(s) funded by the bonds.
8. Requests for appropriations at Hartsfield-Jackson Atlanta International Airport for vertical construction projects for Legally Eligible City Capital Projects funded with Legally Eligible funds, excluding the construction of garages, shall include the encumbrance of an amount equal to one percent (1%) of the estimated cost of such projects for public works of art at the Airport.

9. The funds and accounts into which the public art funds are deposited shall be established and governed by the applicable bond documents and shall be managed by the Department of Finance. Such funds shall be used to support the public arts program to the extent allowed by law and the applicable bond documents.

SO ORDERED this 21st day of March, 2005.


Shirley Franklin
Mayor

ATTEST


Municipal Clerk